Supreme Court, U.S.
FILED
FEB 6 1995
OFFICE OF THE CLERK

(4)

No.94-1034

In the
SUPREME COURT OF THE UNITED STATES
October Term 1994

John Lucas, pro-se
Petitioner

v

Dr. Robert Hahn DrEd President
Dr. Vincent Crockenberg PhD Academic Dean
Stanley Carpenter. Esq.,Board of Ed
Paul Sutherland, Esq., regent
All of Johnson State College,Johnson,Vermont

On Petition for Writ of Certiorari
To The Vermont Supreme Court:Docket #94-015
Motion to Reargue Denied Aug 23, 1994

APPENDIX TO:
REPLY TO BRIEF IN OPPOSITION

John Lucas, pro-se
RR#3 Box 3280
Morrisville,Vt.05661

(802) 888-2815

27RP

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April 27,1992

Donna and Michael Holden
95 Ayres Street
Barre, Vermont 05641
(802) 479-0659

Re:Follow-up to letter of April 6, 1992

Dear Mr. and Mrs. Holden,

Apparently in attempting to clear up some misunderstandings regarding Matt's U.S. History grade I kicked TWO 5000 ton gorillas in their big toes.From their reaction,you might have thought I'd kneed them in their groins.

In filing a proper grievance through channels at Spaulding High School over the History grades,I discovered that I had committed some sort of crime.I was almost immediately suspended from the high school as a student teacher, and less than 48 hours later I was ejected with EXTREME prejudice from the Johnson State College Department of Education.

Your son is not, I REPEAT, not responsible for any of these actions that occurred after the grievance was filed at Spaulding.In my opinion,your son is also a victim in these bizarre events.He,like I,is simply a student who deserves the best.

I have not quit.A week's vacation,some testing and counseling,plus the addition of an excellent attorney,Mr. David Putter of Montpelier, to the process will yield positive results.

First I must solve my problem at the College.That done,the initiating incident,the History Grading,will follow.

Some of the parents involved have offered to help defray the cost of the legal actions.I have agreed,but limited the total sum to one-half of the monthly retainer I must pay Mr. Putter, or $50.00 from all OUTSIDE contributors.This is completely voluntary,and I am not asking that parents contribute unless they feel it is the right thing to do.

Enclosed is a list of names and phone numbers of the parents whose students' grades are in question.Please form an informal group and have one or more of those interested act as a central collection point.Remember,unless a quick resolution can occur this week, the actions which will follow may take some time.

FROM VSC CHANCELLOR (MON) 04.27.'92 02:09 NO.177 PAGE 3

In the mean time,I have volunteered to tutor those students who have the time and interest in English Language Skills and U.S. History. The "Gettysburg Project", the history lesson that was so rudely interrupted,continues every Saturday from 10AM until 1PM in the Vermont Room of the Barre Central Public

Library,the Aldrich Memorial Library.These hours can be modified to better suit you student as the need arises.

Thomas Jefferson had an absolute faith in the wisdom of the common people to guide our Republic.In times such as these it is often hard for the common folks to see a way to effect positive,evolutionary solutions.

By next week I will be able to submit proof positive that the system does work,even if sometimes at a snail's pace.

Yours,

John Lucas
RR#3 Box 3280
Morrisville, Vermont 05661
(802) 888-2815
Work 253-8511 Leave messages

DRAFT

Copied from the file of the Academic Dean 11/7/95

May 6, 1992

Dear Mr. Lucas

I am in receipt of your letter of May 4, 1992, wherein you request that the Johnson State College Graduate Committee hear your appeal of the Johnson State College department of education's decision to remove you from your student teaching position at Spaulding High School.

The appeal process before the Graduate Committee is rather informal in nature and is as follows:

1) You may have counsel present (in an advisory role only)
2) You may submit a written statement to the comittee prior to, at or after the appeal meeting (This is not, however,required.)
3) The purpose of the meeting is to allow you to present information and evidence regarding why the decision of the Education Department should be overturned or modified.
4) Formal rules of evidence and procedure are not in place.
5) A representative of the JSC educa-tion department, who is familiar with the circumstances of your sit-uation, will be present.

6) Formal cross-examination is not permitted.
7) The proceedings are not recorded nor are they open to the public.

JOHNSON STATE COLLEGE
Johnson, Vermont 05656
Department of Writing and Literature
802/635-2356

12 May 1992

Mr. John Lucas
RR#3 Box 3280
Morrisville, Vermont 05661

Dear Mr. Lucas

I am writing to let you know of the process involved in your appeal before the Graduate Committee.

The appeal process is rather informal in nature and is as follows:

1) You may have counsel present (in an advisory role only) If you do choose to have counsel present, please let mr know so that we may do likewise.
2) You may submit a written statement to the comittee prior to, at or after the appeal meeting (This is not, however, required.)
3) The purpose of the meeting is to allow you to present information and evidence regarding why the decision of the Education Department should be overturned or modified.
4) Formal rules of evidence and procedure are not in place.
5) A representative of the JSC Educa-tion Department, who is familiar with the circumstances of your sit-uation will be present.

6) Formal cross-examination is not permitted.
7) The proceedings are not recorded nor are they open to the public.

I will be contacting you soon in order to set up a meeting time which is agreeable to all concerned. Professor Tilley, who is a member of the Graduate Committee, has been asked to withdraw from from this appeal, since he signed the letter terminating your student teaching practicum.we feel that his participation would constitute a conflict of interest; he has agreed to withdraw.

Sincerely

ss Daniel Towner
Daniel Towner, Chair
Graduate Committee

June 2, 1992

John Lucas
RR 3, Box 3280
Morrisville, VT 05661

Dear Mr. Lucas,

Enclosed please find a copy of the Graduate Committee's recommendation to the President in connection with your appeal heard May 28, 1992.

In addition, I have today received your letter of May 30, 1992, which letter contains a request for another meeting with the Graduate Committee to further consider the action of the Education Department and to involve Dr. Page in the proceedings. I have shared your request with other members of the Graduate Committee, and it is our decision that the Committee recommendation to President Hahn would not be affected by further consideration or inquiry. Your request is therefore denied.

Sincerely

Professor Dan Downer
Chair, Graduate Committee

Copy left from the files of the Academic Dean 11/7/94 JH

498g.ltr
Enclosure
cc:
Robert Hahn, President
Vincent Crockenberg, Academic Dean
Carol Story, Chair, Education Department
James Black, Member, Graduate Committee

Total P.02

(Post-IT "stick-um'" notes over the Pg 8 Exhibit Faxsimile Document #98g.ltr"

Post-IT #1:
Alice and Jim:
This is the letter Paul Sutherland wrote in behalf of the Graduate Committee in re to John Lucas

Please review it and let me know if you have any problems with it.if not, I will type up an original and get it out in the mail to John.
Thank You!

OK via Jim B. 6/4/92
(read to him over the phone)
OK by Alice 6/3/92
ss: JoAnn Lamore

Post-It #2:
Ask Dan for copies of both letters to all members present + my material which he borrowed
(unattributable, not the hand in #1/#3)

Post-IT #3:Dan's 6/2/92 letter goes to John Lucas.P.S. Will send a letter that needs to be run by Alice and Jim Black-if OK,both letters letters can be mailed to John. If not, P.S. letter will have to be done over.

Copies to Jim & Alice
(in the same hand/script as Post-IT #1)

(Attached to Pages 8 & 9, 498g.ltr and three Post-IT notes)

SUTHERLAND & COLLINS, INC.
P.O.Box 1623
112 Lake Street
Burlington, Vermont 05402-1623
(802) 862-3524
FAX-(802)862-1794

****

FACSIMILE TRANSMITTAL

****

This transmission contains information which is CONFIDENTIAL-Please see notice below.

THIS IS A 7 PAGE TRANSMISSION, INCLUDING THIS COVER PAGE
DATE: June 2, 1992
TO: Joanne Lamore
FIRM/COMPANY: Johnson State College
FROM: Paul K. Sutherland, Esq.
FAX NUMBER: 635-2069
RE: John Lucas, as discussed
SPECIAL INSTRUCTIONS:

NOTE: The documents accompanying this fax transmission contain information from the law firm of Sutherlan & Collins,Inc., which is confidential and/or legally privileged.The information is intended only for the use of the individual or entity on this transmission sheet. If you are not the intended recipient, you are hereby notified that disclosure, copying, distribution or the taking of any action in reliance on the contents of this faxed information is strictly prohibited, and the documents should be returned to this firm immediately. In this regard, if you have received this fax in error, please notify us by telephone immediately so that we can arrange for the return of the original documents at no cost to you.

(Annoted on back: R/C/D
6/3/92
C
5/28/92
(ORIGINAL LETTER TO JOHN LUCAS)

JOHNSON STATE COLLEGE
Johnson, Vermont 05656
Office of the Academic Dean
802/635-2356

June 2, 1992

John Lucas
RR 3, Box 3280
Morrisville, VT 05661

Dear Mr. Lucas,

Enclosed please find a copy of the Graduate Committee's recommendation to the President in connection with your appeal heard May 28, 1992.

In addition, I have today received your letter of May 30, 1992, which letter contains a request for another meeting with the Graduate Committee to further consider the action of the Education Department and to involve Dr. Page in the proceedings. I have shared your request with other members of the Graduate Committee, and it is our decision that the Committee recommendation to President Hahn would not be affected by further consideration or inquiry. Your request is therefore denied.

Sincerely
ss:DANIEL TOWNER/jl
Professor Dan Towner
Chair, Graduate Committee

498g.ltr
Enclosure
cc:
Robert Hahn, President
Vincent Crockenberg, Academic Dean
Carol Story,Chair,Education Department
James Black, Member, Graduate Committee

Code of Conduct Johnson State College
Johnson, Vermont 1991-1992

p. 13...

ACADEMIC MATTERS...

ACADEMIC DISHONESTY

"Academic Dishonesty" is an act intended to deceive,cheat or defraud an instructor,academic officer of the college,a fellow student,or another in order to enhance or promote one's academic standing.Examples of such dishonesty include, but are not limited to, misrepresenting the work of another as one's own, using answers or information from another or from an unauthorized source for an examination or other academic assignment, and plagiarism....

The guiding principle for all academic work-themes,term papers,studio art,the results of experiments-is whatever is submitted as your own work is to be just that-your own work!Remember: Academic Dishonest is punishable under the COLLEGE CODE OF CONDUCT.

p27-28

POLICY ON ACADEMIC DISHONESTY

"Academic Dishonesty" is an act intended to deceive,cheat or defraud an instructor,academic officer of the college,a fellow student,or another in order to enhance or promote one's academic standing.Examples of such dishonesty include, but are not limited to, misrepresenting the work of another as one's own, using answers or information from another or from an unauthorized source for an examination or other academic assignment.Academic dishonesty in any form is prohibited and is unacceptable to this academic community.

PROCEDURE: Any faculty member who suspects that a student has committed an act of academic dishonesty should take care to document it. The faculty member should meet with the student and bring the suspicion to the attention of that student, providing him/her with an opportunity to respond. Following this meeting, should the faculty member determine that the student has committed an act of academic dishonesty, the faculty member may take one of two approaches. He/she may pursue the issue at the academic level or the judicial level.

If the faculty member chooses to pursue the case at the academic level, he/she will assign a sanction for the offense. This sanction may be a failing grade for the specific work submitted or a failing grade for the course. The student will be notified, in writing, of the faculty member's action.

The student may appeal the academic level sanction of the faculty member. Any such appeal must be submitted, in writing, to the Academic Status Committee. Upon receiving any such appeal, the Academic Status Committee shall meet with the student, the faculty member, and any other person with evidence to submit relative to the charge and determination and will thereafter affirm, reverse, or modify the finding and/or penalty of the faculty member. Decisions of the Academic Status Committee may be appealed, in writing, to the Academic Dean.

The faculty member may choose to pursue the case at the judicial level in addition to or in place of pursuing the case at the academic level. The faculty member may choose to pursue the case at the judicial level when he/she believes that the behavior merits sanctions above

and beyond what the faculty member can levy.

When pursuing the case at the judicial level, the faculty member must file an incident report with the Campus Security Office within one week after meeting with the student.

Decisions of the Dean of Academic Affairs and the Dean of Students may be appealed, in writing, to the President. The President, or a designee, will respond, in writing, to a student as quickly as is feasible.

CHAPTER V
CODE OF CONDUCT AND DISCIPLINARY PROCEDURES

p 43.
K. All forms of ACADEMIC DISHONESTY, including, but not limited to,
-Cheating
-Fabricating
-Facilitating academic dishonesty and plagiarism

12 Jan 95 (late annotation)

23 Jan 95 SECOND REQUEST (amended)

Dr. Robert Hahn Mailed Certified Mail
President Return Receipt Requested
Johnson State College
Receipt # P 829 801 676
Johnson, Vermont 06565
United States Postal Service

Re:Request for Documents under Vermont's Access to Public Records Laws

Dear Dr. Hahn:

Enclosed please find a FORMAL demand for INSPECTION and copy of public records. I am serving this request upon you because you are the President of Johnson State College.and thus the CHIEF CUSTODIAN of the records at Johnson State College.

As you know,the Vermont State Colleges Corporation is a state chartered PUBLIC corporation,created by statute to administer post secondary education through it's subsidiaries.Johnson State College is a subsidiary of this chartered corporation. Local, state and federal monies are disbursed to your corporation and it's subsidiaries in the nominal pursuit of educational activities. As such,your policies and procedures,as well as those of your subsidiaries,including but not limited to the documents listed below, are subject to inspection by members of the general public.

Additionally, the requested records fall under the federal rights granted students regarding their own educational

records, as detailed under 20 USC 1232 g, FERPA, and the FERPA federal regulations, 34 FRC 99 et al.

Since the College has apparently reversed it's previous positions regarding the status of Dr. Richard Wilgoren as an adjunct instructor of the College (see 28 June 92 Graduate Committee Memo and 23 (16?) Mar 93 "Academic Dean" Appeal Decision), this request for records asks you, as the President of Johnson State College, to secure these crucial documents from Dr. Wilgoren, now you subordinate per Page 1, Respondent's Brief in Opposition to Petitioner's Writ of Certiorari, Docket # 94-1034.

On or about 24 Feb 1992, Dr. Richard Wilgoren and the undersigned co-signed Spaulding High School Mid Marking Period Progress Reports, and sent them home to the parents of the 409B (419B?) American History Class.The procedure was for the parents to acknowledge these reports, and to countersign and return these reports.Please acquire true and genuine copies of these reports for me.

Page 1 of 3From the period 27 Mar 92 thr ough 2 April 92, a series of meetings between myself and Dr. Wilgoren took place, at which Report Card Grades for the American History students were co-ordinated.I provided Dr. Wilgoren the entire quarter's measurements. He supplied either 15 or 19 additional measures, deficient homework marks.From these sources, and perhaps others, the high school student published grades were co-created.Please 1) Secure a copy of the measures that I supplied Dr. Wilgoren, 2) Secure from Dr. Wilgoren the materials and written measures he used in the process, 3)Secure from

Spaulding High School true and accurate copies of the Report Cards of the 409B (419B?) American History Students for that, 3rd quarter grading, and 4) Secure from Spaulding High School the same report cards reflecting the previous grading period (s), ending 23 Jan 1992.

In as much as Dr. Wilgoren has achieved adjunct status, please provide all notes, documents and other papers generated by the other three co-ordinating teachers at the high school, also now, by extension, adjuncts of Johnson State College. Perhaps you can meet with Dr. Page and Dr. Whiting, which the records show met with "involved teachers" at Spaulding High School, on or about 27 Apr 92, at a meeting where my final grades in the EDU 680 Secondary Internship course was determined.These regular faculty members must be privy to the meeting, and can assist you in the search for any documents generated at this crucial point. As you must be aware, the Vermont Statutes regarding
student teachers do not allow grading of student teachers without written input of the co-operating teacher(s).

Finally, on page 9 of the above mentioned Brief to the United States Supreme Court, the Lower Courts are quoted as relying on "ethical standards" in their decision. This also occurs on Principal Paterson's 10 Apr 92 memo of suspension, as "...lack of ethical conduct displayed."
Please supply the "ethics code" to which both the Courts and Paterson refer to.

Second Request Amendments:

Records in my files at the college indicate that a facsimile transmission of 2 June 1992 from the offices of Sutherland and Collins is textually identical to the 2 June 92 Graduate Committee Decision/Recommendation of Dr. Towner, Dr. Black and Professor Whiting. This 2 June 92 Graduate Committee Decision arrived at my house, per notes on the back side of the document, on 3 June 1992, with a 28 May 92 Summary (unsigned) by Dr. Towner.

The yellow "post-it" notes on the front of the facsimile indicate that Dr. Black signed off on this document on 3 June 92, with Professor Whiting concurring on 4 June 92. Nowhere does Dr. Towner indicate that he has signed off on this document. The ORIGINAL in my files does not have Dr. Towner's signature as authority.

Page 2 of 3Please provide documentation which substantially indicates that Dr. Towner approved of this document, an appeal document issued in his name, with his authority as the appeal officer of the Graduate Committee. Also, indicate how Dr. Towner was authorized to seek the other member's approval, and speak for both Dr. Black and Professor Whiting, when neither of them quite apparently had knowledge of this 2 June 92 "Final Decision" until after it was mailed from the college.

Please be advised that Mr. Harris, before the Supreme Court, has firmly denied that Mr. Sutherland ever "posed" as Dr. Towner (Brief in Opposition 6 Jan 95: Page 5; #10)

IF YOU DO NOT PRODUCE THESE DOCUMENTS FOR INSPECTION,YOU MUST STATE YOUR REASONS FOR NON-COMPLIANCE WITHIN TWO

BUSINESS DAYS. YOU ARE NOTIFIED THAT 1 VSA SECTION 318 IMPOSES REQUIREMENTS OF TIME AND CONTENT RELATIVE TO THE ABOVE REQUESTS, AND THAT 1 VSA 320 IMPOSES PENALTIES FOR FAILURE TO COMPLY FULLY WITH THE REQUIREMENTS OF THIS VERMONT STATUTE.

On Monday, January 23, 1995, I state that I commenced service a copy of this request upon President Robert Hahn Johnson State College which is by virtue of the Vermont State Statutes (16 VSA 2171) a sub-division of the State of Vermont, mailing this request, Certified Mail, Return Receipt Requested, First Class Postage Pre-paid, United States Postal Service, to President Robert Hahn, Johnson State College, Johnson, Vermont 05656.
Dated:

John Lucas
RR#3 Box 3280
Morrisville, Vermont 05661
(802) 888-2815

On this date, the 23rd day of January, 1995, personally appeared John Lucas, signer and sealer of the foregoing written instrument and acknowledged same to his free hand and deed:

Before me:

SS: Linda Beaton

Commission Expires 2/97

cc:
Michael Harris
Files

Law Offices
Sutherland & Collins, Inc.
112 Lake Street, Ste. 5
Burlington, Vermont 05402-1623

Paul K. Sutherland Tele:(802) 862-3524
John J. Collins Fax:(802) 862-1794

Kathleen A. McMahon
Michael J. Harris

Paralegal:
Clara B. Griswold

January 13, 1995

John Lucas
RR3 Box 3280
Morrisville, Vt. 05661

Re: Your letter to Dr. Robert Hahn dated January 12, 1995

Dear Mr. Lucas:

Dr. Robert Hahn has referred your letter dated January 12, 1995 to him to me for response. Please be advised that this law firm will represent Dr. Robert Hahn and Johnson State College concerning any requests you might have for documents concerning that college.

To respond to your request: you appear to be seeking Spaulding High School mid-marking period progress reports;"measures" you supplied Dr. Wilgoren in Spring 1992;"materials and written measures" used by Dr. Wilgoren during that time;"report cards of the 409B" from Spaulding High School; certain "report cards" regarding earlier "report cards" regarding that course; "notes, documents and other papers" generated by three other coordinating Spaulding High School teachers; and "ethics codes" referenced by lower

courts and by Spaulding High School Principal Paterson in an earlier letter.

Please note that these documents do not exist in the Johnson State College files. See 1 VSA ss 318 (a) (4). We recommend that you address your request for such documents to the Spaulding High School records custodians, who can then respond to the extent such records may be subject to Vermont public records law.

Yours very truly,
ss: Paul K. Sutherland
Paul K. Sutherland, Esq.

js:vsc\110.ltr

STATE OF VERMONT
LAMOILLE COUNTY SUPERIOR COURT

JOHN LUCAS
V S-0077-93LaC
DR. ROBERT HAHN, ET AL

The above matter came on for a hearing on the defendant's motion for summary judgement before the Honorable Alan W. Cook, Presiding Judge, in the Lamoille Superior Court, Hyde Park, Vermont, on October 19, 1993

APPEARANCES
Plaintiff appeared pro se.
PAUL SUTHERLAND, ESQ., appeared for the defendant
COURT REPORTER: HEIDI T. WRIGHTON,RPR,CM

p23....
THE COURT:...Obviously, if the motion for summary judgement is granted, the case will be dismissed. If it is not granted or it's only partially granted, then the matter will be set for trial.

MR. SUTHERLAND: Your Honor,...
p25:... may I make one brief point?

THE COURT: Yes.

MR. SUTHERLAND: I'm not sure that I said clearly enough in my initial argument that there is the real distinction at Johnson State college, in academia as a whole, between matters involving academic decision-making and the matters involving disciplinary decision-making.And the reason, I think, that we were miscommunicating on what it is that Mr. Lucas was looking for is that this was an academic matter. This was an academic decision being made within the department that Mr. Lucas ought not to

be permitted to continue in his internship MUCH LIKE AN ACADEMIC DECISION THAT A STUDENT GETS AN A. B, C OR AN F. (Respondent's emphasis) And the process for appealing those decisions are very different than the process that's available for appealing disciplinary things to do with bad behavior, alcohol, assault, OR EVEN ACADEMIC DISHONESTY LIKE PLAGIARISM OR CHEATING OR SOMETHING LIKE THAT. (respondent's emphasis). And I think that all along while Mr. Lucas was looking for something from the college which described...

p25:...due process, he was thinking he had been disciplined and he was being punished.The college was thinking HE HAD BEEN SUBJECTED TO AN ACADEMIC DECISION THAT HE OUGHT NOT TO CONTINUE BECAUSE HE WAS FAILING IN HIS INTERNSHIP. (respondent's emphasis) I think that's a lot why we were miscommunicating.....

STATE OF VERMONT
LAMOILLE COUNTY SUPERIOR COURT

JOHN LUCAS
V S-0077-93LaC
DR. ROBERT HAHN, ET AL

The above matter came on for a hearing on the defendant's motion for summary judgement before the Honorable Alan W. Cook, Presiding Judge, in the Lamoille Superior Court, Hyde Park, Vermont, on October 19, 1993

APPEARANCES
Plaintiff appeared pro se.
PAUL SUTHERLAND, ESQ., appeared for the defendant
COURT REPORTER: HEIDI T. WRIGHTON,RPR,CM

p 12...
LUCAS: Yes, you (your Honor) are right.I didn't understand.Counsel is quite right .I didn't understand how I could be suspended the day after I'm expelled for being suspended. That's a problem for me.What my attorney had requested and what we had requested informally of the department of education at Johnson State prior to moving to other methods was to find some way to resolve this so we could look at the incident. We were quite interested in seeing if my filing a grievance was actually a ...
pg 13...professional misconduct. That's all I did, was file a grievance. However, the grievance apparently has been lost because there is no more incident according to the high school.May I submit to the Court...
THE COURT:What is that?
LUCAS:These are requests for records fulfilled by the high school, Spaulding High School, through their attorney Anthony Lamb, on three separate occa-

sions last month on the 16th, the 21st and the 20th, actually, where they have given me all of the records pertaining and that they have threatened to arrest me if I ask for more records.There is nothing in this file which indicates an incident ever occurred, sir.There is nothing in this file from their attorney which at this point indicates that I was even a graduate student during the time period I was there.There is no letter of suspension.There are no nasty or demeaning letters written.There is no letter to parents.There's no...

(n.b. The Spaulding Records File(s) referred to are marked "10/19/93 S.H.S Records" before the courts.

IN MORRISVILLE, VERMONT, THIS, THE 3RD OF FEBRUARY, 1995.

PRO-SE -